

Notice of Allowability

Application No.

10/715,492

Examiner

Ardith E. Hertzog

Applicant(s)

ALBERS ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Rule 116 amendment filed May 19, 2005.
2. ☒ The allowed claim(s) is/are 19-35, now numbered 7-17 and 1-6, respectively.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date May 19, 2005
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT/REASONS FOR ALLOWANCE

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

In the Rule 116 amendment filed May 19, 2005, in the status identifier for claim 26, "Previously Presented" was changed to "Currently Amended", for compliance with 37 CFR § 1.121.

3. The following is an examiner's statement of reasons for allowance:

With entry of the Rule 116 amendment filed May 19, 2005, the 35 U.S.C. § 112, first paragraph, rejection of claims 19-29 and 33-35, as set forth in paragraph 17. of the final rejection, has been **withdrawn**. In particular, applicant's arguments with respect to Example 2 on page 12 of the current specification have been carefully considered, and it is **agreed** that said example "clearly provides sufficient support for claims directed to the use of chlorite in combination with a crystalline material comprising layers of brucite structure (i.e., such as applicant's preferred hydrotalcite)" (remarks accompanying amendment at p. 18, last paragraph), per claims 21, 26-29, 33 and 35. **Analogously**, upon reconsideration, Example 3 on page 12 of the current specification is considered to clearly provide sufficient support for desorption/recycling claims using "solid sorbent material comprising at least one magnesia-rich crystalline material having a layered

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structure comprising layers of brucite, wherein the brucite-containing sorbent material is predominantly magnesia" (i.e., such as applicant's preferred hydrotalcite), per claim 34. **In addition**, upon reconsideration, it is now recognized that independent claim 19 – and hence claims 20 and 22-25 – **only** require use of "a solid crystalline sorbent material comprising at least one crystalline material comprising layers of brucite structure comprising about 10 to 30 weight percent magnesia... **and...** [which] comprises a **chlorite** layered structure..." (emphasis added) and therefore **are** clearly supported by Example 1 on page 11 of the current specification. Thus, with **all other** objections and rejections, as set forth in the final rejection, having been **overcome** by amendment, **and** with the prior art of record (including that cited on the enclosed PTO-1449) failing to teach or to have suggested processes, per instant independent claims 19, 26 and 34, and/or compositions, per instant independent claim 34 (in accordance with paragraph 21. of the final rejection), this application is now in condition for allowance.

Conclusion


4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or any earlier communications from the examiner should be directed to Ardith E. Hertzog at 571-272-1347. The examiner can normally be reached on Monday through Friday (from about 8:00 a.m. - 4:00 p.m.).

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6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman, can be reached at 571-272-1358. The fax phone number for the organization where this application is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. For any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


STANLEY S. SILVERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700


AEH
May 25, 2005